

PENTWYN LEISURE CENTRE: PRE-DECISION SCRUTINY

Appendices 2, 3, 4 and 5 of the report at Appendix A are not for publication as they contain exempt information of the description contained in paragraphs 14, 16 and 21 of Schedule 12A of the Local Government Act 1972

Purpose of the Report

1. To give Members background information to aid the scrutiny of the draft report to Cabinet regarding Pentwyn Leisure Centre, which is due to be considered by Cabinet at their meeting on 22 June 2023.

2. Members should note that **Appendices 2, 3, 4 and 5** of the Cabinet report, at **Appendix A**, are exempt from publication. Members are requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct.

Scope of Scrutiny

3. At their meeting on 22 June 2022, the Cabinet will consider a report that seeks authority to proceed with a new scheme for improving Pentwyn Leisure Centre.

4. During this scrutiny, Members have the opportunity to explore:
 - a. The reasons why previous proposals are not progressing
 - b. The proposed new scheme for improving Pentwyn Leisure Centre, including:
 - i. Improvements to leisure offer
 - ii. Role and remit of GLL(Better Leisure) and implications for Leisure Services Contract
 - iii. Leasing arrangements to third parties
 - iv. Leasing arrangements to Cardiff Rugby
 - v. Invest-to-Save capital investment

- vi. Decarbonisation and reduced running costs
- c. The likely impact on service delivery
- d. The financial implications for the Council
- e. Whether there are any risks to the Council
- f. The timeline and next steps for delivering the proposals, and
- g. The recommendations to Cabinet.

Structure of the meeting

5. The Chair will move that this item be considered in two parts: an open session, where Members will be able to ask questions on the issues and papers that are in the public domain; and a closed session, where members of the public will be excluded, where Members can ask questions that pertain to **Appendices 2,3,4 and 5 of Appendix A**.
6. Members will hear from Councillor Jennifer Burke (Cabinet Member – Culture, Parks and Events), Neil Hanratty (Director of Economic Development), Steve Morris (Operational Manager – Sport, Leisure and Development), Chris Barnett (Operational Manager – Major Projects) and Matthew Seymour (Operational Manager – Asset Management).
7. Members will then be able to decide what comments, observations or recommendations they wish to pass on to the Cabinet for their consideration prior to making their decisions.

Background

8. Leisure Services are discretionary but contribute to the Council meeting statutory obligations set out in the Wellbeing of Future Generations Act (2015). In December 2016, Cardiff Council and GLL (Greenwich Leisure Ltd) commenced a fifteen-year leisure centre management partnership, with GLL contracted to deliver leisure services at eight leisure centres, including Pentwyn Leisure Centre.
9. Until the coronavirus pandemic, GLL reported improved performance including increased attendances, refurbished leisure centres, achievement of quality award

and demonstrable social impact value of over £14 million. During the pandemic, Pentwyn Leisure Centre was used as a Mass Vaccination Centre and was used by Cardiff Rugby whilst their facilities were used to support the Nightingale Hospital.

10. Due to the impact of the pandemic, in November 2020 Cabinet authorised a review of the GLL Leisure Service contract to identify potential variations to improve long-term sustainability and protect service delivery.
11. In March 2021, the review findings were reported to Cabinet, including that Pentwyn Leisure Centre was the poorest performing centre; this reflected historic trends. Cabinet authorised variations to the contract with GLL, including removing Pentwyn Leisure Centre and establishing a commercial partnership with Cardiff Rugby to enable facilities to be upgraded and hence commercially viable, subject to further due diligence.
12. In October 2022, Cabinet agreed an alternative approach to Pentwyn Leisure Centre, following detailed legal due diligence and a review of the sustainability of the wider GLL contract. Cabinet agreed to retain Pentwyn Leisure Centre in the contract with GLL, to let space in the building to third parties such as Cardiff Rugby and to use the income generated from these lets to fund the repayment of Invest to Save capital that would be invested in the building alongside monies ringfenced from the disposal of land adjacent to the Pentwyn Park and Ride site.
13. In March 2023, as part of the Budgetary Proposals Report, Line 94 of the Council's Capital Programme allocated **£3.694m** for the Pentwyn Leisure Centre Redevelopment¹. This, coupled with the spend to date, results in £4m allocated to Pentwyn Leisure Centre, as set out by Cllr Weaver in his response to this Committee's letter following budget scrutiny².

¹ Available at [Annex 3.pdf \(moderngov.co.uk\)](#)

² [\(Public Pack\)Correspondence following Committee Meeting Agenda Supplement for Economy & Culture Scrutiny Committee, 28/02/2023 13:30 \(moderngov.co.uk\)](#)

Issues identified in the Cabinet Report

14. The draft report to Cabinet entitled '*Pentwyn Leisure Centre*' is attached at

Appendix A and has 6 appendices, as follows:

- Appendix 1 - Pentwyn Leisure Centre Updated Plans
- Confidential Appendix 2 - Updated Cost Plans
- Confidential Appendix 3 - Financial Proposal
- Confidential Appendix 4 - Cardiff Rugby revised Heads of Terms (Leases - Building & Pitches)
- Confidential Appendix 5 – Leisure Centre Solar Energy Scheme
- Appendix 6 – Equality Impact Assessment

15. **Points 13-17** outline why the original scheme for Pentwyn Leisure Centre is no longer affordable, due to rising construction costs, increased interest rates, increasing energy costs, and that the monies from the disposal of land adjacent to the Pentwyn Park and Ride site are no longer available for this scheme as they are required to meet increased costs of the proposed Llanrumney bridge link.

16. **Points 18 – 25** set out the new proposed scheme, which includes:

- a. New leisure facilities – swimming pool, gym, 3G pitch and mini pitch
- b. Refurbished family changing facility
- c. New cafeteria
- d. New hall and external space
- e. Minor facelift to external areas
- f. Installation of solar panels on roof space
- g. Installation of ground source heat pump

17. **Points 18-25** also set out proposals for:

- a. GLL to retain and operate some areas (*gym and changing facilities*)
- b. Third Party Operators to lease areas of Pentwyn Leisure Centre (*pool area, cafeteria and soft play area*)
- c. Cardiff Rugby to lease areas of Pentwyn Leisure Centre (*main building and 3G pitches*)

18. The overall costs for the project are set out in **Confidential Appendix 2**, and an overview of projected revenues is at **Confidential Appendix 3**.

19. **Points 26 – 28** provide an overview of QC advice previously received on the proposed removal of Pentwyn Leisure Centre from the GLL contract. Point 28 states that the current proposal presents less of a variation of contract than previously advised on and that, if future variations of contract are proposed, KC advice would be required.

20. **Points 29 – 32** set out that:

- a. a planning application for the proposed external 3G pitch has been submitted to be determined in August/ September
- b. if the report to Cabinet is approved, contractors will be appointed over the summer
- c. the Council will be required to undertake legal due diligence and demonstrate best value through external valuation, prior to entering into property leases with Cardiff Rugby and/ or third parties
- d. work will take place to identify alternative options and mitigations in case the leases do not proceed as anticipated
- e. if the report to Cabinet is approved, work should commence Autumn 2023 and complete end 2024, with pitches, fitness centre and changing rooms complete by early 2024.

21. Financial Implications are set out in **Points 34- 40** and include:

- a. Draft Lease heads of terms include that tenants will be responsible for all fitout, repairs and running costs within their demise – there is a need to ensure proposed heads of terms are sufficiently robust to protect the Council
- b. There is a significant risk that costs will be higher than estimated
- c. The capital programme allocation of £4M has £300,000 spend to date
- d. Consideration may need to be given to use of earmarked reserves or reprofiling the currently approved Capital Programme.
- e. Detailed financial due diligence and consideration of alternative mitigations needs to take place prior to finalisation of leases

- f. It is proposed costs for solar panels would be part funded through an invest to save zero interest Salix loan, with operational savings contributing to payback of the loan
- g. Careful work is needed to identify responsibilities for work and thus avoid VAT liabilities
- h. Tax and legal advice will need revisiting once final proposals are available, to ensure there is no detriment to the Council.

22. Legal Implications are at **Points 41 - 53** and include:

- a. GLL will need to surrender to the Council the parts of Pentwyn Leisure Centre that are to be leased to third parties; these will remain the responsibility of the Council until leases are entered into
- b. The Council is able to grant leases on the best terms reasonably obtainable
- c. The Council's Acquisition and Disposal of Land Procedure Rules require the decision maker to have regard to a qualified valuer
- d. Detailed legal advice should be sought relating to the procurement process and the drafting of the draft terms and conditions of contract
- e. the need for the Council to consider its duties with regard to the Equality Act 2010, the Well- Being of Future Generations (Wales) Act 2015, Welsh Language Measure (Wales) 2011 and Welsh Language Standards, and ensure the proposal is within the Policy and Budget Framework.

23. There are no HR Implications identified and the Property Implication are contained within the body of the report.

Proposed Recommendations to Cabinet

24. The report to Cabinet contains the following recommendations:

- 1) *Approve the scheme for Pentwyn Leisure Centre as illustrated by the design plans at Appendix 1 and the financial proposal at Confidential Appendix 3 and delegate authority to the Director of Economic Development in consultation with the Cabinet Member for Culture, Parks and Events, the Section 151 Officer, and the Legal Officer to:*

- i) Deal with all aspects of the procurement of a contractor(s) to undertake the works set out in this report subject to the financial envelope set out at Confidential Appendix 3;*
 - ii) Conclude lease agreements with tenants on the terms set out at Confidential Appendices 3 and 4, subject to detailed due diligence and independent valuation to demonstrate best value.*
- 2) Approve the solar energy scheme as set out at Confidential Appendix 5 and delegate authority to the Director of Economic Development in consultation with the Cabinet Member for Culture, Parks and Events, the Section 151 Officer, and the Legal Officer to deal with all aspects of the procurement of a contractor(s) to deliver the solar energy scheme as set out in this report and at Confidential Appendix 5, subject to the financial envelope set out at Confidential Appendix 5.*

Previous Scrutiny

25. Since 2017, this Committee has undertaken regular scrutiny of the partnership between the Council and GLL, regarding the delivery of contract for leisure services at Better Leisure Centres in Cardiff.

26. In November 2020, this Committee considered the impact of the coronavirus pandemic on leisure services in Cardiff and carried out pre-decision scrutiny of a report to Cabinet on the contract with GLL.

27. In March 2021, Members undertook pre-decision scrutiny of a report to Cabinet that sought Cabinet approval, in principle, to vary the Leisure Services contract with GLL, including in respect to Pentwyn Leisure Centre.

28. In October 2022, Members undertook pre-decision scrutiny of a report to Cabinet titled 'Review of the Leisure Services Contract (GLL)', which included a proposed relief payment to GLL, acquisition of energy for GLL via the Crown Commercial Service, the need to upgrade leisure centres energy infrastructure, and an approach to modernise future operations of Pentwyn Leisure Centre. Following the meeting, the Chair wrote a public and a confidential letter to Cllr Burke, capturing Committee Members' observations and comments. The public letter is attached as **Appendix B** to this report; the confidential letter has previously been circulated to Committee Members.

Way Forward

29. Councillor Jennifer Burke (Cabinet Member – Culture, Parks and Events) will be invited to make a statement. Neil Hanratty (Director of Economic Development), Steve Morris (Operational Manager – Sport, Leisure and Development), Chris Barnett (Operational Manager – Major Projects) and Matthew Seymour (Operational Manager – Asset Management) have been invited to attend to give a presentation. The whole panel will be available to answer Members' questions.
30. All Members are reminded of the need to maintain confidentiality with regard to the information provided in **Appendices 2, 3, 4 and 5** of the report to Cabinet attached at **Appendix A**. Members will be invited to agree the meeting go into closed session to enable discussion of this information.

Legal Implications

31. The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters, there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g., Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

Financial Implications

32. The Scrutiny Committee is empowered to enquire, consider, review, and recommend but not to make policy decisions. As the recommendations in this

report are to consider and review matters, there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

RECOMMENDATION

The Committee is recommended to:

- i) Consider the information in this report, its appendices and the information presented at the meeting
- ii) Determine whether they would like to make any comments, observations or recommendations to the Cabinet on this matter in time for its meeting on 22 June 2023; and
- i) Decide the way forward for any future scrutiny of the issues discussed.

DAVINA FIORE

Director of Governance & Legal Services

14 June 2023